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JUN 30 2006

OFFICE OF PETITIONS

In re Application of
Holden et al.
Application No. 09/803,987
Filed: March 13, 2001
For: SYSTEM AND METHOD FOR
PROVIDING SERVICES USING A WEB HUB

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DECISION ON
PETITION

This is a decision in response to the Renewed Petition Under 37 CFR 1.181, filed May 22, 2006, requesting withdrawal of the holding of abandonment.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed December 16, 2004. The Notice set a three (3) month period for reply. No response having been received, the application became abandoned March 17, 2005. A Notice of Abandonment was mailed July 19, 2005.

July 21, 2005 Petition to Withdraw Holding of Abandonment

Applicant filed a petition to withdraw the holding of abandonment on July 21, 2005, wherein Applicant asserted that he did not receive the Office action. In support of this assertion, Applicant provided copies of a docket record; however, the application numbers were not included in the docket records. As such, there was no way to determine which application(s) wherein the docket records were supposed to demonstrate non-receipt of the Office action.

The petition was dismissed in a Decision mailed November 21, 2005. Applicant was informed that the showing required to

establish non-receipt of an Office communication must include the following:

- (1) A statement from the practitioner stating the Office action was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received, and
- (3) A copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

MPEP 711.03(c)

The Decision dismissing the petition required copies of the docket records with the list of all responses in the practitioner's office with the due date at and around March 16, 2005.

The January 19, 2006 Request for Reconsideration

Applicant filed a Request for Reconsideration on January 19, 2006 and included copies of his docket record that had serial numbers identified where Office actions had been entered, save one.

A review of the docket record revealed that on page seven, a three (3) month non-final Office action was received by practitioner on January 5, 2005. The docket record further revealed that the Office action had a mail date of December 16, 2004 and a response due March 16, 2005. No corresponding application number had been included with this entry.

This entry corresponded with the communication mailed from this Office, to wit - a non-final Office action, mailed December 16, 2004, and a due date for response of March 16, 2005.

The petition was dismissed because Applicant had failed to demonstrate that the non-final Office action, mailed December 16, 2004, with a due date for response due March 16, 2004, in the above-identified application, was not received.

The instant Renewed Petition


With the instant petition, Petitioner has demonstrated non-receipt of the Office action by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2879 for re-mailing of the December 16, 2004 non-final Office action.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions